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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/429,283	10/28/1999	SHUICHI UENO	0057-2534-2Y	5740

7590

08/21/2002

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EXAMINER

FOURSON III, GEORGE R

ART UNIT

PAPER NUMBER

2823

DATE MAILED: 08/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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Commissioner of Patents and Trademarks

Please see attached PTO-892 citing *Size*, previously relied on. The period for response to the Final Action mailed 12/18/01 will not be restarted because applicant did not point out the error in the office action within the statutory period for response.


Applicant argues in the supplemental Appeal Brief filed 7/25/02 that the finality of the office action mailed 12/18/01 was improper because *Size* was newly cited. In response applicant is directed to MPEP 2144.03 which states " If the examiner adds a reference to the rejection in the next action after applicant's rebuttal, the newly cited reference, if it is added merely as evidence of the prior well known statement, does not result in a new issue and thus the action can potentially be made final. "

Furthermore, see MPEP 706.07(c) which states "Any question as to prematurity of a final rejection should be raised, if at all, while the application is still pending before the primary examiner. This is purely a question of practice, wholly distinct from the tenability of the rejection. It may therefore not be advanced as a ground for appeal, or made the basis of complaint before the Board of Patent Appeals and Interferences. It is reviewable by petition under 37 CFR 1.181. See MPEP § 1002.02(c).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-0956. See MPEP 203.08.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner George Fourson whose telephone number is (703) 308-2544. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael Fahmy, can be reached on (703) 308-4918. The fax number for this group is (703)308-7722 (or extensions 7724, 3431 or 3432) for regular communications and (703)308-7382 for after final communications.


George Fourson
Primary Examiner
Art Unit: 2823